



Agenda Date: 4/11/01

Agenda Item: III-B

## **STATE OF NEW JERSEY**

### ***Board of Public Utilities***

***Two Gateway Center  
Newark, NJ 07102***

#### **CABLE TELEVISION**

IN THE MATTER OF THE PETITION OF )  
COMCAST CABLEVISION OF THE )  
PLAINFIELDS, INC. FOR A RENEWAL )  
CERTIFICATE OF APPROVAL TO CONTINUE )  
TO OPERATE AND MAINTAIN A CABLE )  
TELEVISION SYSTEM IN AND FOR THE )  
CITY OF PLAINFIELD, COUNTY OF UNION, )  
STATE OF NEW JERSEY )

#### **RENEWAL CERTIFICATE OF APPROVAL**

)  
DOCKET NO. CE01010030

Stryker, Tams and Dill, Newark, New Jersey, by Janice Manganello, Esq., for the Petitioner.

City Clerk, City of Plainfield, New Jersey, by Laddie Wyatt, for the City.

#### **BY THE BOARD:**

On August 3, 1979, the Board granted Plainfield Cablevision, Inc., a wholly owned subsidiary of Storer Cable Communications, Inc. ("Storer") a Certificate of Approval in Docket No. 795C-6470, for the construction, operation and maintenance of a cable television system in the City of Plainfield ("City"). As part of an internal corporate reorganization approved by the Board in Docket No. CM88060717 on June 17, 1988, Plainfield Cablevision, Inc. informed the Board's Office of Cable Television that it would be known as Storer Cable Communications of the Plainfields, Inc. d/b/a Storer Cable Communications ("Storer Plainfield").

On April 13, 1989, the Board granted Storer Plainfield a Renewal Certificate of Approval for the City in Docket No. CE88121314. On November 30, 1992, in Docket No. CM92080843, the Board approved the petition of Comcast Cablevision (a 50% shareholder of the Certificate) and Storer Plainfield to transfer all assets to Comcast Cablevision, Inc. On June 27, 1994, Storer Plainfield notified the Board's Office of Cable Television that it would now be known as Comcast Cablevision of the Plainfields, Inc. ("Petitioner"). Although the Petitioner's Certificate expired on August 3, 1999, it is authorized to continue to provide cable television service to the City pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the City on or about November 2, 1998, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The City, after public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner on August 22, 2000. The Petitioner formally accepted the terms and conditions of the ordinance on December 4, 2000 in accordance with N.J.S.A. 48:5A-24.

On January 3, 2001, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the City. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the City reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is ten years with an automatic renewal provision for a term of five years thereafter pursuant to N.J.S.A. 48:5A-19 and -25. The Office of Cable Television finds these periods to be of reasonable duration.
5. The performance of the Petitioner with regard to the ordinance may be reviewed by the City, which shall commence on the fifth anniversary of the issuance of this Certificate, and again on the ninth anniversary, and shall be completed no later than six months from the commencement date. The City shall provide written notification to the Petitioner and the Board of the commencement and within 30 days after completion of said review. Upon a determination that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the City shall provide written notice and opportunity to cure to the Petitioner within 90 days of the notice of such a determination. If, after such reasonable notice and opportunity to cure, the Petitioner still has not cured any such findings of non-compliance, the City may petition the Board for appropriate administrative action.
6. Prior to the initial review of the franchise at the fifth anniversary, the Petitioner shall provide the City a capital contribution in the amount of \$50,000.00, to be used as the City deems appropriate for cable-related purposes.
7. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
8. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.

9. The Petitioner shall maintain a local business office or agent within the City for the purpose of receiving, investigating and resolving complaints. Currently, the local business office serving this provision is located at 73 Rock Avenue in the City.
10. The franchise fee to be paid to the City is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the City. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
11. The Petitioner shall provide service along any public right-of-way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.
12. The Petitioner shall build out the cable television distribution plant to those portions of the Central Business District that are not currently built out in accordance with the map submitted to the municipality and attached to the ordinance. The Petitioner shall complete the build out no later than 24 months of its receipt of this Certificate, and shall use reasonable efforts to complete the rebuild within 12 months of its receipt of this Certificate.
13. The Petitioner has completed an upgrade of the cable television system serving the City to 750 MHz, using "fiber to the node" architecture.
14. The Petitioner shall provide public, educational and governmental ("PEG") access channels, facilities and support personnel in accordance with its application and the City's ordinance.
15. The Petitioner shall provide the City with one dedicated PEG access channel for use by the City and its designees for the purpose of televising non-commercial public, governmental and educational programming. The channel shall be operated and maintained by the Petitioner and administered by the City. The Petitioner shall provide this channel as soon as possible, but no later than 12 months from its receipt of this Certificate.
16. The Petitioner shall also construct and maintain two dedicated fiber optic return lines originating from Municipal or School District buildings to be determined by the City as soon as possible, but no later than 12 months from its receipt of this Certificate. The Petitioner shall provide all necessary equipment to allow live cablecasting in stereo by the City.
17. Within two months of its receipt of this Certificate, the Petitioner shall provide the City with a capital contribution in the amount of \$150,000.00 for the purpose of purchasing video production equipment or to be otherwise used as the City deems appropriate for cable-related purposes. Within two months of its receipt of this Certificate, the Petitioner shall also provide a grant of \$5,000.00 for the purchase of a personal computer-based character generator for use in the

creation and cablecast of non-commercial community messages.

18. Within 12 months of written notification of the City, the Petitioner shall provide a second dedicated PEG access channel.
19. In addition to the above, the Petitioner shall make its mobile production vehicle available to the City for the purpose of producing non-commercial educational, governmental or community programming. The Petitioner shall provide training to users of the vehicle.
20. The Petitioner shall offer seminars in basic television production for personnel who will assist in production originated by the City, School District and their designees.
21. The Petitioner shall designate an employee, who will come to the City if necessary, to be responsible for providing assistance, receiving comments and responding in person to complaints regarding the quality of access transmissions.
22. The Petitioner shall continue to provide total preferred cable service on one outlet, free of charge, to each police, fire, first aid, public library, community center and emergency management facility in the City, provided that the facility is within 200 feet of active cable distribution plant. The City shall pay for each additional outlet to one of the above facilities; however, the Petitioner shall waive monthly service charges for additional outlets.
23. The Petitioner shall also continue to provide total preferred cable service on one outlet, free of charge, to each public and private school in the City, provided that the school is within 200 feet of active cable distribution plant. The school shall pay for each additional outlet installed by the Petitioner. The Petitioner shall waive monthly service charges for any additional outlets. The Petitioner shall make available to the school district all of the benefits of "Cable in the Classroom" programming.
24. The Petitioner shall provide free basic Internet access service, via high-speed modem, to one non-networked personal computer in each public and private school in the City. The Petitioner shall provide free basic Internet access service, via high-speed modem, to ten non-networked personal computers in the City's Library.
25. Upon reasonable written request of the City, the Petitioner shall meet at least once annually at a public hearing of the City Council or before the City Cable Television Advisory Committee to discuss matters pertaining to the provision of cable service to residents of the City and other related issues as the City and Petitioner may see fit.

26. The Petitioner shall provide to the City a performance bond in the amount of \$25,000.00 for the life of the franchise. In addition, the Petitioner shall provide to the City a performance bond in the amount of \$150,000.00 during the build-out of the Central Business District of the City.

It is to be noted herein that the City's municipal consent ordinance requires an additional performance bond in the amount of \$150,000.00 during the period of construction. The Cable Television Act requires that, within its application for municipal consent, a cable company must include evidence of a commitment for a performance bond in an amount of not less than \$25,000.00, pursuant to N.J.S.A. 48:5A-28(d). Although the municipality must approve the amount, the sufficiency and reasonableness of the performance bond is subject to review and approval by the Board. The purpose of the performance bond is to ensure all undertakings as promised in the municipal consent application and the ordinance.

The Petitioner has accepted the ordinance in its entirety. The Office of Cable Television has reviewed the reasons why the City is requiring a higher performance bond and recommended that the Board approve the provision for a \$150,000.00 performance bond during the build out of the Central Business District. Therefore, this Certificate of Approval confirms that the Petitioner shall provide a performance bond in the amount of \$25,000.00 for the life of the franchise and an additional performance bond in the amount of \$150,000.00 until the build out of the above noted area is complete. Upon completion of the build out, the Petitioner shall seek certification from the City that all work has been performed to its satisfaction, as specified in the ordinance. The Petitioner may then apply to the Office of Cable Television for reduction of the performance bond to the statutory minimum of \$25,000.00, which application shall contain a confirmation from the Petitioner that all required work has been completed.

Based upon these findings, the Board HEREBY CONCLUDES, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), that the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the City.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions, and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions, and limitations set forth herein, may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on August 3, 2009.

DATED: April 12, 2001

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

CAROL J. MURPHY  
COMMISSIONER

(signed)

FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH  
BOARD SECRETARY